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5 **UNITED STATES DISTRICT COURT**
6 **DISTRICT OF NEVADA**
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8 EDILFREDO CHAVEZ,

9 Petitioner,

3:14-cv-00373-RCJ-VPC

10 vs.

ORDER

11 ROBERT LeGRAND, *et al.*,

12 Respondents.
13 _____/

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15 This habeas corpus action was stayed on July 27, 2015, pending the petitioner's exhaustion of
16 claims in state court (ECF No. 33).

17 On October 13, 2016, the petitioner, Edilfredo Chavez, filed a motion to lift the stay
18 (ECF No. 39). In that motion, Chavez states that the state-court proceedings have concluded. On
19 October 26, 2016, respondents filed a response to the motion to lift stay (ECF No. 42), stating that
20 they do not oppose the motion. Good cause appearing, the court will grant Chavez's motion to lift
21 the stay.

22 The court notes that, in the motion to lift the stay, Chavez makes no request for an
23 opportunity to amend his petition after the stay is lifted. *See* Motion to Reopen Case (ECF No. 39),
24 p. 3 (requesting that respondents be ordered "to respond to Chavez's fully exhausted petition within
25 a reasonable period of time"). With this in mind, the court will also set a schedule for further
26 litigation of this action.

1 **IT IS THEREFORE ORDERED** that petitioner's Motion to Lift Stay (ECF No. 39) is
2 **GRANTED.** The stay of this action is vacated. The Clerk of the Court shall reopen this case.

3 **IT IS FURTHER ORDERED** that the following schedule shall govern the further litigation
4 of this action:

5 1. Response to Petition. Respondents shall have 60 days after the date of this order to file
6 and serve an answer or other further response to petitioner's first amended petition for writ of habeas
7 corpus (ECF No. 9).

8 2. Reply and Response to Reply. Petitioner shall have 45 days following service of an
9 answer to file and serve a reply. Respondents shall thereafter have 30 days following service of a
10 reply to file and serve a response to the reply.

11 3. Briefing of Motion to Dismiss. If respondents file a motion to dismiss, petitioner shall
12 have 60 days following service of the motion to file and serve a response to the motion. Respondents
13 shall thereafter have 30 days following service of the response to file and serve a reply.

14 4. Discovery. If petitioner wishes to move for leave to conduct discovery, petitioner shall
15 file and serve such motion concurrently with, but separate from, the response to respondents' motion
16 to dismiss or the reply to respondents' answer. Any motion for leave to conduct discovery filed by
17 petitioner before that time may be considered premature, and may be denied, without prejudice, on
18 that basis. Respondents shall file and serve a response to any such motion concurrently with, but
19 separate from, their reply in support of their motion to dismiss or their response to petitioner's reply.
20 Thereafter, petitioner shall have 20 days to file and serve a reply in support of the motion for leave to
21 conduct discovery.

22 5. Evidentiary Hearing. If petitioner wishes to request an evidentiary hearing, petitioner
23 shall file and serve a motion for an evidentiary hearing concurrently with, but separate from, the
24 response to respondents' motion to dismiss or the reply to respondents' answer. Any motion for an
25 evidentiary hearing filed by petitioner before that time may be considered premature, and may be
26 denied, without prejudice, on that basis. The motion for an evidentiary hearing must specifically

1 address why an evidentiary hearing is required, and must meet the requirements of 28 U.S.C.
2 § 2254(e). The motion must state whether an evidentiary hearing was held in state court, and, if so,
3 state where the transcript is located in the record. If petitioner files a motion for an evidentiary
4 hearing, respondents shall file and serve a response to that motion concurrently with, but separate
5 from, their reply in support of their motion to dismiss or their response to petitioner's reply.
6 Thereafter, petitioner shall have 20 days to file and serve a reply in support of the motion for an
7 evidentiary hearing.

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9 DATED THIS 12th day of December, 2016.

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13 UNITED STATES DISTRICT JUDGE
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